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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,979	06/07/2001	Michael D. Anderson	025304-0103	5988

22428 7590 09/22/2003

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3000 K STREET NW
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EXAMINER

GORDON, STEPHEN T

ART UNIT PAPER NUMBER

3612

DATE MAILED: 09/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application <u>09/874,979</u>	Applicant(s) <u>Anderson et al</u>	
	Examiner <u>Gordon</u>	Art Unit <u>3612</u>	Confirmation No. <u>[Signature]</u>

- The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address -

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 7-17-03
- ☐ This action is FINAL. ☒ This action is non-final.
- ☐ Since this application is in condition for allowance except for the formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-26 + 28-31 is/are pending in this application.
- Of the above claim(s) 2, 16-21 + 29 is/are withdrawn from consideration.
- ☒ Claim(s) 5 + 8-10 is/are allowed.
- ☒ Claim(s) 1, 3, 4, 6, 7, 11-15, 22-26, 28 + 30-31 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved or ☐ disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.
- ☐ The drawing(s) filed on _____ is/are ☐ accepted or ☐ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d) or (f).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- *Certified copies not received:
- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- ☐ The translation of the foreign language provisional application has been received.
- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Art Unit: 3612

DETAILED ACTION

1. Claims 2, 16-21, and 29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention. Election was made **without** traverse in Paper No. 7.

2. Claims 1, 6-7, 11-15, 23-26, 28, and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 1 as newly amended, "the exterior cargo" in line 3 lacks clear antecedent basis and could be written as –the exterior cargo bed—for clarity as best understood. It should be noted, it appears a portion of new claim 1 may have been inadvertently omitted – see for example new claims 3 and 4 etc.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-4, 6-7, 11-15, 22-26, 28, and 30-31, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews in view of Johnson et al.

Matthews teaches a truck including a cab, a tailgate, and a bed portion which includes sidewall and floor mounted tie anchor/track assemblies – see figure 1 etc. The tracks additionally include a slotted surface facing vertically upward – see figure 2 etc.

Art Unit: 3612

Re claim 1, Matthews fails to specifically teach that the track/slotted surface is recessed with regard to adjacent contour portions of a horizontal plane of the body as defined.

Johnson et al teaches a floor construction for a cargo carrying vehicle including a tie down track 11 with an upwardly facing slotted surface (see figure 1) which is recessed relative to adjacent floor portions 12 and includes a track mounted tie assembly 10.

In order to provide a floor construction that allows more flexibility for cargo loading and additionally would provide less interference with cargo during loading and unloading, it would have been obvious to one of ordinary skill in the art to construct at least the floor mounted tracks of Matthews of a recessed floor construction as taught by Johnson et al. Such track would define a recessed track and slotted surface positioned as recited in instant claim 1.

Re claim 3, the fitting of Johnson et al is releasable as claimed, and the modified Matthews/Johnson et al device would provide a recessed track as discussed regarding claim 1 above.

Re claim 4, the modified Matthews/Johnson et al device would provide a recessed track as discussed regarding claim 1 above.

Re claim 6, the track of the modified Matthews device runs as recited.

Re claim 7, the modified Matthews device defines multiple tracks in the cargo bed floor.

Art Unit: 3612

Re claims 11-15, 28, and 30, the track and slotted portion would be positioned as recited in the modified Matthews/Johnson et al device.

Re claim 22, the fitting of Johnson et al is released as claimed.

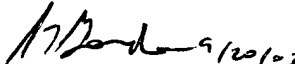
Re claims 23 and 24, the modified Matthews/Johnson et al device would be configured as recited.

Re claim 25, Matthews teaches only two floor mounted tracks. Johnson et al teaches specifically the use of multiple tie tracks on the floor of the vehicle (see section 3, lines 33-35 etc.). In order to provide additional system flexibility, it would have been obvious to one of ordinary skill in the art to provide the cargo bed floor of Matthews as modified by Johnson et al with a third tie track in view of the teachings of Johnson et al.

Re claim 26, the Johnson et al track is deemed configured as broadly claimed.

Re claim 31, the tracks of Matthews as modified are external of the cab.

5. Claims 5 and 8-10 are allowed.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (703) 308-2556.


Stephen Gordon
Primary Examiner
Art Unit 3612

stg